

JOURNAL OF THE SENATE

NINETIETH SESSION

SIXTEENTH DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Thursday, February 5, 2015

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Tom Christenson, followed by the Pledge of Allegiance led by Senate page Shyanne Seidel.

Roll Call: All members present except Sen. Omdahl who was excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the fifteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on Education respectfully reports that it has had under consideration SB 124 and 125 and returns the same with the recommendation that said bills do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Education respectfully reports that it has had under consideration SB 86 and returns the same with the recommendation that said bill be amended as follows:

86ra

On page 1, line 9, of the printed bill, delete everything after "begins" and insert "July first".

On page 1, line 10, delete "Monday, in January".

And that as so amended said bill do pass.

Also MR. PRESIDENT:

The Committee on Education respectfully reports that it has had under consideration SB 42 which was tabled.

Respectfully submitted,
Deb Soholt, Chair

Also MR. PRESIDENT:

The Committee on Retirement Laws respectfully reports that it has had under consideration HB 1007, 1008, 1009, 1010, and 1011 and returns the same with the recommendation that said bills do pass and be placed on the consent calendar.

Also MR. PRESIDENT:

The Committee on Retirement Laws respectfully reports that it has had under consideration SB 168 and returns the same with the recommendation that said bill be amended as follows:

168ra

On page 1, line 7, of the printed bill, delete "eleven" and insert "fifteen".

1 On page 1, line 10, delete "and".

2 On page 1, line 12, after "abuse" insert ";

3 (4) The Chief Justice of the Supreme Court shall appoint three members who have
4 significant experience with elder abuse; and

5 (5) The attorney general shall appoint one member who has significant experience with
6 elder abuse".

7 168ya

8 On page 2, after line 6 of the printed bill, insert:

9 "Section 4. This Act is repealed on December 31, 2016.".

10 And that as so amended said bill do pass.

11 Respectfully submitted,
12 Bruce Rampelberg, Chair

13 Also MR. PRESIDENT:

14 The Committee on Judiciary respectfully reports that it has had under consideration SB 98
15 and 108 and returns the same with the recommendation that said bills do pass.

16 Also MR. PRESIDENT:

17 The Committee on Judiciary respectfully reports that it has had under consideration SB 97
18 and returns the same with the recommendation that said bill do pass and be placed on the
19 consent calendar.

20 Also MR. PRESIDENT:

21 The Committee on Judiciary respectfully reports that it has had under consideration the
22 nomination of Patricia White Horse Carda of Charles Mix County, Wagner, South Dakota, to
23 the Board of Pardons and Paroles and returns the same with the recommendation that the Senate
24 advise and consent to the confirmation of said appointment and that said appointment be placed
25 on the consent calendar.

26 Respectfully submitted,
27 Craig Tieszen, Chair

1 Also MR. PRESIDENT:

2 The Committee on Agriculture and Natural Resources respectfully reports that it has had
3 under consideration HB 1053 and 1054 and returns the same with the recommendation that said
4 bills do pass and be placed on the consent calendar.

5 Also MR. PRESIDENT:

6 The Committee on Agriculture and Natural Resources respectfully reports that it has had
7 under consideration HB 1055 and returns the same with the recommendation that said bill be
8 amended as follows:

9 1055ja

10 On page 2 of the House Agriculture and Natural Resources Committee engrossed bill,
11 delete lines 16 to 24, inclusive.

12 On page 3, delete lines 1 to 6, inclusive.

13 On page 11, delete lines 6 to 14, inclusive.

14 And that as so amended said bill do pass.

15 Respectfully submitted,
16 Gary Cammack, Chair

17 Also MR. PRESIDENT:

18 The Committee on Commerce and Energy respectfully reports that it has had under
19 consideration SB 120 and returns the same with the recommendation that said bill be amended
20 as follows:

21 120ra

22 On the printed bill, delete everything after the enacting clause and insert:

23 "Section 1. That § 35-4-124 be amended to read as follows:

24 35-4-124. Any municipality or county may issue:

25 (1) A special malt beverage retailers license in conjunction with a special event within
26 the municipality or county to any civic, charitable, educational, fraternal, or veterans
27 organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (16)
28 in addition to any other licenses held by the special events license applicant;

- 1 (2) A special on-sale wine retailers license in conjunction with a special event within the
2 municipality or county to any civic, charitable, educational, fraternal, or veterans
3 organization or any licensee licensed pursuant to subdivision 35-4-2(4), (6), or (12)
4 or chapter 35-12 in addition to any other licenses held by the special events license
5 applicant;
- 6 (3) A special on-sale license in conjunction with a special event within the municipality
7 or county to any civic, charitable, educational, fraternal, or veterans organization or
8 any licensee licensed pursuant to subdivision 35-4-2(4) or (6) in addition to any other
9 licenses held by the special events license applicant; ~~or~~
- 10 (4) A special off-sale package wine dealers license in conjunction with a special event
11 within the municipality or county to any civic, charitable, educational, fraternal, or
12 veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3), (5),
13 (12), (17A), or (19) or chapter 35-12 in addition to any other licenses held by the
14 special events license applicant. A special off-sale package wine dealers licensee may
15 only sell wine manufactured by a farm winery that is licensed pursuant to chapter 35-
16 12;
- 17 (5) A special off-sale package wine dealers license in conjunction with a special event
18 within the municipality or county to any civic, charitable, educational, fraternal, or
19 veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3), (5),
20 (12), or (17A) in addition to any other license held by the special events license
21 applicant; or
- 22 (6) A special off-sale package malt beverage dealers license in conjunction with a special
23 event within the municipality or county to any civic, charitable, educational, fraternal,
24 or veterans organization or any licensee licensed pursuant to subdivision 35-4-2(3),
25 (5), (16), (17), (17A), or (20) in addition to any other license held by the special
26 events license applicant.

27 Any license issued pursuant to this section may be issued for a period of time established
28 by the municipality or county. However, no period of time may exceed fifteen consecutive days.
29 No public hearing is required for the issuance of a license pursuant to this section if the person
30 applying for the license holds an on-sale alcoholic beverage license or a retail malt beverage
31 license in the municipality or county or holds an operating agreement for a municipal on-sale
32 alcoholic beverage license, and the license is to be used in a publicly-owned facility. The local
33 governing body shall establish rules to regulate and restrict the operation of the special license,
34 including rules limiting the number of licenses that may be issued to any person within any
35 calendar year.

36 Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
37 follows:

38 A civic, charitable, educational, fraternal, or veterans organization holding a special events
39 license pursuant to subdivision 35-4-124(5) may accept donated wine from members of the
40 public to be sold at the special event. A civic, charitable, educational, fraternal, or veterans

organization holding a special events license pursuant to subdivision 35-4-124(6) may accept donated malt beverages from members of the public to be sold at the special event.

Any donated wine or malt beverage must have been purchased from a licensed South Dakota retailer by the donor. A complete record of the proof of the purchase of the donated wine or malt beverage from a licensed South Dakota retailer must accompany the wine or malt beverage at the time of donation, and the holder of the special events license pursuant to subdivision 35-4-124(5) or (6) shall maintain a complete record of the proof of the purchase of the donated wine or malt beverage."

120fa

On page 3, after line 1 of the printed bill, insert:

"Section 2. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval."

120fta

On page 1, line 2, of the printed bill, after "events" insert "and to declare an emergency".

And that as so amended said bill do pass.

Also MR. PRESIDENT:

The Committee on Commerce and Energy respectfully reports that it has had under consideration SB 118 and returns the same with the recommendation that said bill be amended as follows:

118rb

On page 2, line 15, of the printed bill, after "an" insert "easily accessible".

On page 2, line 16, after "providers" insert "and facilities".

On page 2, line 19, after "providers" insert "and facilities".

On page 2, line 20, overstrike "and".

On page 3, line 1, delete everything after "the formulary" and insert "and a description of an easily accessible method to obtain a prior authorization or step edit requirement for each specific drug included on the formulary; and

(7) The description of the drug formularies in subdivision (6) shall be promptly updated with any adverse change.

1 Sen. Rave moved that the Senate do concur in HCR 1004 as found on page 144 of the
2 House Journal.

3 The question being on Sen. Rave's motion that HCR 1004 be concurred in.

4 And the roll being called:

5 Yeas 25, Nays 9, Excused 1, Absent 0

6 Yeas:

7 Brown; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock); Haggard (Jenna); Haverly;
8 Heineman (Phyllis); Holien; Hunhoff (Bernie); Jensen (Phil); Lederman; Monroe; Novstrup
9 (David); Olson; Otten (Ernie); Peterson (Jim); Rampelberg; Rave; Rusch; Solano; Sutton; Van
10 Gerpen; White

11 Nays:

12 Bradford; Buhl O'Donnell; Heinert; Parsley; Peters; Soholt; Tidemann; Tieszen; Vehle

13 Excused:

14 Omdahl

15 So the motion having received an affirmative vote of a majority of the members-elect, the
16 President declared the motion carried and HCR 1004 was concurred in.

17 Sen. Rave moved that SB 100 be placed to follow SB 39 on today's calendar.

18 Which motion prevailed.

19 Sen. Rave moved that when we adjourn today, we adjourn to convene at 1:00 p.m. on
20 Friday, February 6, the 17th legislative day.

21 Which motion prevailed.

22 **CONSIDERATION OF REPORTS OF COMMITTEES**

23 Sen. Rave moved that the reports of the Standing Committees on

24 State Affairs on SB 135 as found on page 280 of the Senate Journal; also

25 Local Government on SB 64 as found on page 279 of the Senate Journal be adopted.

26 Which motion prevailed.

1 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

2 HB 1002: FOR AN ACT ENTITLED, An Act to make an appropriation to the Department
3 of Revenue to provide for the electronic submission of reports and taxes related to alcoholic
4 beverages and to declare an emergency.

5 Was read the first time and referred to the Committee on Appropriations.

6 HB 1005: FOR AN ACT ENTITLED, An Act to repeal the foundation program fund and
7 references thereto.

8 Was read the first time and referred to the Committee on Education.

9 HB 1047: FOR AN ACT ENTITLED, An Act to revise certain reversion provisions
10 relating to the General Appropriations Act for fiscal year 2013.

11 Was read the first time and referred to the Committee on Appropriations.

12 HB 1050: FOR AN ACT ENTITLED, An Act to repeal certain funds, to make revisions
13 to receipts dedicated to the property tax reduction fund, and to create the general revenue
14 replacement fund.

15 Was read the first time and referred to the Committee on Appropriations.

16 HB 1073: FOR AN ACT ENTITLED, An Act to require a sex offender to report a change
17 in vehicle status to law enforcement.

18 Was read the first time and referred to the Committee on Judiciary.

19 HB 1092: FOR AN ACT ENTITLED, An Act to establish the rural school teacher
20 recruitment assistance program, and to make an appropriation to the education enhancement
21 trust fund to provide for the annual funding of the program.

22 Was read the first time and referred to the Committee on Appropriations.

23 HB 1095: FOR AN ACT ENTITLED, An Act to provide access to abandoned cemeteries
24 and private burying grounds.

25 Was read the first time and referred to the Committee on Agriculture and Natural
26 Resources.

1 HB 1097: FOR AN ACT ENTITLED, An Act to provide for a reduced minimum fall
2 enrollment for certain school districts.

3 Was read the first time and referred to the Committee on Education.

4 HB 1098: FOR AN ACT ENTITLED, An Act to authorize extended terms of lease for
5 airport facilities.

6 Was read the first time and referred to the Committee on Local Government.

7 HB 1111: FOR AN ACT ENTITLED, An Act to increase the costs and expenses
8 considered reasonable for the collection of certain dishonored checks.

9 Was read the first time and referred to the Committee on Commerce and Energy.

10 HB 1117: FOR AN ACT ENTITLED, An Act to provide for the approval of postsecondary
11 courses for certain nonpublic school students and students receiving alternative instruction.

12 Was read the first time and referred to the Committee on Education.

13 HB 1120: FOR AN ACT ENTITLED, An Act to revise the provisions related to phase in
14 rate plans for plant additions.

15 Was read the first time and referred to the Committee on Commerce and Energy.

16 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

17 SB 161: FOR AN ACT ENTITLED, An Act to allow certain fireworks to be used all year.

18 Was read the second time.

19 161rb

20 Sen. Greenfield (Brock) moved that SB 161 be amended as follows:

21 On the Senate Commerce and Energy Committee engrossed bill, delete everything after
22 the enacting clause and insert:

23 "Section 1. That chapter 34-37 be amended by adding thereto a NEW SECTION to read
24 as follows:

1 The provisions of § 34-37-16.1 do not apply to snakes and smoke effects if they do not fly,
2 travel, or explode, or to single-shot parachute pieces without a flare."

3 Which motion prevailed.

4 The question being "Shall SB 161 pass as amended?"

5 And the roll being called:

6 Yeas 33, Nays 0, Excused 2, Absent 0

7 Yeas:

8 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
9 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
10 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
11 Rampelberg; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

12 Excused:

13 Omdahl; Rave

14 So the bill having received an affirmative vote of a majority of the members-elect, the
15 President declared the bill passed and the title was agreed to.

16 SB 80: FOR AN ACT ENTITLED, An Act to increase the selling price of a towed vehicle
17 that exempts the seller of the vehicle from certain vehicle dealer licensing requirements.

18 Was read the second time.

19 The question being "Shall SB 80 pass?"

20 And the roll being called:

21 Yeas 34, Nays 0, Excused 1, Absent 0

22 Yeas:

23 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
24 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
25 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
26 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
27 White

28 Excused:

29 Omdahl

30 So the bill having received an affirmative vote of a majority of the members-elect, the
31 President declared the bill passed and the title was agreed to.

SB 85: FOR AN ACT ENTITLED, An Act to repeal certain requirements regarding the handlebar height on motorcycles.

Was read the second time.

The question being "Shall SB 85 pass?"

And the roll being called:

Yeas 34, Nays 0, Excused 1, Absent 0

Yeas:

Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock); Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

Excused:

Omdahl

So the bill having received an affirmative vote of a majority of the members-elect, the President declared the bill passed and the title was agreed to.

SB 94: FOR AN ACT ENTITLED, An Act to establish a license fee for electric-powered motorcycles.

Was read the second time.

The question being "Shall SB 94 pass?"

And the roll being called:

Yeas 34, Nays 0, Excused 1, Absent 0

Yeas:

Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock); Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

Excused:

Omdahl

1 So the bill having received an affirmative vote of a majority of the members-elect, the
2 President declared the bill passed and the title was agreed to.

3 SB 111: FOR AN ACT ENTITLED, An Act to repeal the provision that invalidates
4 absentee ballots cast by voters who died before the date of the election.

5 Was read the second time.

6 The question being "Shall SB 111 pass?"

7 And the roll being called:

8 Yeas 34, Nays 0, Excused 1, Absent 0

9 Yeas:

10 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
11 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);
12 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
13 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
14 White

15 Excused:

16 Omdahl

17 So the bill having received an affirmative vote of a majority of the members-elect, the
18 President declared the bill passed and the title was agreed to.

19 SB 57: FOR AN ACT ENTITLED, An Act to authorize and regulate the playing of craps,
20 roulette, and keno within the city limits of the city of Deadwood.

21 Was read the second time.

22 The question being "Shall SB 57 pass?"

23 And the roll being called:

24 Yeas 27, Nays 7, Excused 1, Absent 0

25 Yeas:

26 Bradford; Brown; Buhl O'Donnell; Curd; Ewing; Frerichs; Greenfield (Brock); Haverly;
27 Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil); Lederman; Novstrup
28 (David); Olson; Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Soholt; Solano; Sutton;
29 Tidemann; Tieszen; Vehle

30 Nays:

31 Cammack; Haggar (Jenna); Monroe; Otten (Ernie); Rusch; Van Gerpen; White

1 Excused:
2 Omdahl

3 So the bill having received an affirmative vote of a majority of the members-elect, the
4 President declared the bill passed and the title was agreed to.

5 SB 66: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
6 county renaming process.

7 Was read the second time.

8 The question being "Shall SB 66 pass as amended?"

9 And the roll being called:

10 Yeas 34, Nays 0, Excused 1, Absent 0

11 Yeas:

12 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);

13 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Jensen (Phil);

14 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);

15 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;

16 White

17 Excused:
18 Omdahl

19 So the bill having received an affirmative vote of a majority of the members-elect, the
20 President declared the bill passed and the title was agreed to.

21 SB 39: FOR AN ACT ENTITLED, An Act to make an appropriation for costs related to
22 disasters in the state and to declare an emergency.

23 Was read the second time.

24 39db

25 Sen. Haverly moved that SB 39 be amended as follows:

26 On page 1, line 4, of the printed bill, delete "seven million nine" and insert "five million
27 two hundred fourteen thousand three".

28 On page 1, line 5, delete everything before "dollars" .

29 On page 1, line 5, delete "\$7,994,449" and insert "\$5,214,003".

1 Which motion prevailed.

2 The question being "Shall SB 39 pass as amended?"

3 And the roll being called:

4 Yeas 33, Nays 0, Excused 2, Absent 0

5 Yeas:

6 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
7 Haggar (Jenna); Haverly; Heineman (Phyllis); Holien; Hunhoff (Bernie); Jensen (Phil);
8 Lederman; Monroe; Novstrup (David); Olson; Otten (Ernie); Parsley; Peters; Peterson (Jim);
9 Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle;
10 White

11 Excused:

12 Heinert; Omdahl

13 So the bill having received an affirmative vote of a two-thirds majority of the members-
14 elect, the President declared the bill passed and the title was agreed to.

15 Sen. Rave moved that SB 100 and HB 1058, 1059, 1063, 1043, 1057, 1051, and 1013 be
16 deferred to Friday, February 6, the 17th legislative day.

17 Which motion prevailed.

18 **SIGNING OF BILLS**

19 The President publicly read the title to

20 HB 1012: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding child
21 welfare agencies.

22 HB 1016: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
23 references for auditing standards used by the Department of Revenue.

24 HB 1017: FOR AN ACT ENTITLED, An Act to repeal certain outdated and unnecessary
25 provisions related to the Department of Revenue.

26 HB 1018: FOR AN ACT ENTITLED, An Act to revise the sales and use tax exemptions
27 for farm machinery.

28 HB 1019: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
29 exemptions from sales and use taxation of farm machinery, attachment units, and irrigation
30 equipment used exclusively for agricultural purposes.

2 Sen. Jensen (Phil) moved that the Senate do now adjourn, which motion prevailed and at
3 3:40 p.m. the Senate adjourned.

4 Kay Johnson, Secretary